IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8399 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PUNJALAL CHANALAL PRAJAPATI

Versus

DIST COLLECTOR

Appearance:

1. Special Civil Application No. 8399 of 2004

MR PH PATHAK for Petitioner No. 1-4

MRS FALGUNI PATEL, AGP for Respondent No. 1

MR SANJAY M AMIN for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 18/08/2004

ORAL JUDGEMENT

1. Rule. Mrs.Falguni Patel, learned AGP waives service of notice of rule, for the respondent No.1 and Mr.Sanjay M. Amin, learned advocate waives service of

notice of rule, for the respondent No.2.

2. At the joint request of learned advocates appearing for the parties, this petition is taken up for final disposal, today.

3. In the present petition, the petitioners have complained that despite the order of the Competent Authority under the Payment and Gratuity Act, directing the respondent No.2 to pay the gratuity to the petitioners, who are retired employees of the respondent No.2 and despite recovery certificate issued pursuant to the said orders, the respondent No.2 has not made the payment of gratuity amount, payable to the petitioners. The petitioners have produced at Annexure-A the orders of payment of gratuity passed by the Competent Authority. Annexure-B Collectively, is the recovery certificates and Annexure-C, is a copy of representation.

4. The respondent No.2 has appeared in response to the notice issued by this Court and filed an affidavit mainly contending that there is financial crunch and on account of paucity of fund, the Nagarpalika has not been able to make the payment of gratuity dues of the petitioner. There is, however, no dispute about payability of the amount in question. Learned advocate for the respondent No.2 has prayed that the respondent No.2 may be given some time for payment of the amount in question and the same will be paid in installments, as may be directed by the Court.

5. Considering the submissions made, it is directed that the respondent No.2 shall pay the amount of gratuity to the petitioners, as per the orders of the Controlling Authority, produced at Annexure-A Collectively to the petition, in four equal monthly installments beginning from 1st September, 2004. If, any payments are already made towards the dues by the respondent No.2, the same will certainly be permitted to be set off and the deficient amount should be paid under this order.

6. In view of this direction, this petition stands disposed of. Rule is made absolute to the aforesaid extent. No order as to costs.

[Akil Kureshi,J.]

(vijay)